



*JPW*

Docket No. 75723-ZB/JPW/GJG/CS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David Baltimore et al.  
Serial No.: 10/037,415 Examiner: C. Hibbert  
Filed : January 4, 2002 Group Art Unit: 1636  
For : NUCLEAR FACTORS ASSOCIATED WITH TRANSCRIPTIONAL  
REGULATION

30 Rockefeller Plaza  
20th Floor  
New York, New York 10112  
September 22, 2009

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In accordance with their duty of disclosure under 37 C.F.R. §1.56, Applicants direct the Examiner's attention to the following disclosures, which are also listed on the attached substitute Form PTO-1449 (**Exhibit A**).

Applicants note that item 1 listed herein is part of a concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly & Co.* Item 2 listed herein is part of a concurrent litigation captioned *Amgen, Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al.* Both litigation proceedings involve U.S. Patent No. 6,410,516, which issued from a parent of the subject application.

Applicants further note that items 1-2 were previously submitted to the U.S. Patent and Trademark Office on September 22, 2009 in connection the copending merged reexamination

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proceeding of U.S. Patent No. 6,410,516, for which the subject application relies on for an earlier effective priority date under 35 U.S.C. §120. In accordance with 37 C.F.R. §1.98(d), copies of items 1-2 are not enclosed herewith but are readily available to the Examiner from the file history of U.S. Patent No. 6,410,516 and its merged proceeding of *Ex Parte* Reexamination Control Nos. 90/007,503 and 90/007,828.

The Examiner is respectfully requested to make the items of record in the subject application by initialing and dating the attached substitute Form PTO-1449, and returning a copy of the initialed and dated form to Applicants' undersigned attorneys.

1. Order issued August 21, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248; and
2. Decision issued June 1, 2009 in the concurrent litigation captioned *Amgen, Inc., et al. v. ARIAD Pharmaceuticals, Inc., et al.*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2009-1023.

The August 21, 2009 Order granted ARIAD's petition for a rehearing *en banc*. In addition, the April 3, 2009 decision in *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company* has been vacated.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

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No fee is deemed necessary in connection with filing this Supplemental Information Disclosure Statement. However, if any other fee is required, authorization is hereby given to charge the additional amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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# **EXHIBIT A**

## **of Supplemental Information Disclosure Statement**

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